

HOUSE BILL No. 1293

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Homestead deduction application. Establishes a procedure for the submission of a sales disclosure form for a homestead to constitute an application for the homestead credit. In cases where that procedure does not apply, changes the deadline for application for the credit for real property from June 10 to December 31. Provides that the sales disclosure form must include information to allow the form to serve as the homestead credit application. Allows a county auditor to reduce the assessed value used to set tax rates to take into account standard deductions resulting from homestead credit applications filed late in the year.

Effective: Upon passage; January 1, 2008 (retroactive).

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January 15, 2008, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1293

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-5.5-5, AS AMENDED BY P.L.154-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 5. (a) The department of local government
4 finance shall prescribe a sales disclosure form for use under this
5 chapter. The form prescribed by the department of local government
6 finance must include at least the following information:

- 7 (1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
- 8 (2) Whether the entire parcel is being conveyed.
- 9 (3) The address of the property.
- 10 (4) The date of the execution of the form.
- 11 (5) The date the property was transferred.
- 12 (6) Whether the transfer includes an interest in land or
13 improvements, or both.
- 14 (7) Whether the transfer includes personal property.
- 15 (8) An estimate of any personal property included in the transfer.
- 16 (9) The name, address, and telephone number of:
17 (A) each transferor and transferee; and



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- 1 (B) the person that prepared the form.
- 2 (10) The mailing address to which the property tax bills or other
- 3 official correspondence should be sent.
- 4 (11) The ownership interest transferred.
- 5 (12) The classification of the property (as residential, commercial,
- 6 industrial, agricultural, vacant land, or other).
- 7 (13) The total price actually paid or required to be paid in
- 8 exchange for the conveyance, whether in terms of money,
- 9 property, a service, an agreement, or other consideration, but
- 10 excluding tax payments and payments for legal and other services
- 11 that are incidental to the conveyance.
- 12 (14) The terms of seller provided financing, such as interest rate,
- 13 points, type of loan, amount of loan, and amortization period, and
- 14 whether the borrower is personally liable for repayment of the
- 15 loan.
- 16 (15) Any family or business relationship existing between the
- 17 transferor and the transferee.
- 18 **(16) For purposes of application for the homestead credit**
- 19 **under IC 6-1.1-20.9-3.5, whether the transferee will reside in**
- 20 **the homestead as the transferee's principal place of residence**
- 21 **on December 31 of the current calendar year.**
- 22 **(17) The name of any other county and township in which the**
- 23 **transferee owns or is buying real property.**
- 24 ~~(+6)~~ (18) Other information as required by the department of local
- 25 government finance to carry out this chapter.
- 26 If a form under this section includes the telephone number or the Social
- 27 Security number of a party, the telephone number or the Social Security
- 28 number is confidential.
- 29 (b) The instructions for completing the form described in subsection
- 30 (a) must include the information described in IC 6-1.1-12-43(c)(1).
- 31 SECTION 2. IC 6-1.1-17-0.5, AS AMENDED BY P.L.154-2006,
- 32 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 UPON PASSAGE]: Sec. 0.5. (a) For purposes of this section, "assessed
- 34 value" has the meaning set forth in IC 6-1.1-1-3(a).
- 35 (b) The county auditor may exclude and keep separate on the tax
- 36 duplicate for taxes payable in a calendar year the assessed value of
- 37 tangible property that meets the following conditions:
- 38 (1) The assessed value of the property is at least nine percent
- 39 (9%) of the assessed value of all tangible property subject to
- 40 taxation by a taxing unit.
- 41 (2) The property is or has been part of a bankruptcy estate that is
- 42 subject to protection under the federal bankruptcy code.

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(3) The owner of the property has discontinued all business operations on the property.

(4) There is a high probability that the taxpayer will not pay property taxes due on the property in the following year.

(c) This section does not limit, restrict, or reduce in any way the property tax liability on the property.

(d) For each taxing unit located in the county, the county auditor may reduce for a calendar year the taxing unit's assessed value that is certified to the department of local government finance under section 1 of this chapter and used to set tax rates for the taxing unit for taxes first due and payable in the immediately succeeding calendar year. The county auditor may reduce a taxing unit's assessed value under this subsection only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately succeeding calendar year that are expected to result from **either or both of the following:**

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) Deductions under IC 6-1.1-12-37 that result from the granting of applications for the homestead credit for the calendar year under IC 6-1.1-20.9-3 or IC 6-1.1-20.9-3.5 after the county auditor certifies assessed value as described in this section.

The county auditor shall keep separately on the tax duplicate the amount of any reductions made under this subsection. The maximum amount of the reduction authorized under this subsection is determined under subsection (e).

(e) The amount of the reduction in a taxing unit's assessed value for a calendar year under subsection (d) may not exceed ~~the lesser of:~~

~~(1) two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year. or~~

~~(2) the total amount of reductions in the assessed value of tangible property subject to assessment in the taxing unit that:~~

~~(A) applied for the assessment date in the immediately preceding year; and~~

~~(B) resulted from successful appeals of the assessed value of the property.~~

(f) The amount of a reduction under subsection (d) may not be offered in a proceeding before the:

(1) county property tax assessment board of appeals;

(2) Indiana board; or

(3) Indiana tax court;

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as evidence that a particular parcel has been improperly assessed.

SECTION 3. IC 6-1.1-20.9-2, AS AMENDED BY P.L.224-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who ~~on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay~~ is liable for the property taxes on ~~the~~ a homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) The amount of the credit to which the individual is entitled equals the product of:

- (1) the percentage prescribed in subsection (d); multiplied by
- (2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 through 2005	20%
2006	28%
2007 and thereafter	20%

However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase

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1 equals the amount designated in the ordinance.

2 (e) Before October 1 of each year, the **county** assessor shall furnish
3 to the county auditor the amount of the assessed valuation of each
4 homestead for which a homestead credit has been properly filed under
5 **section 3 or 3.5 of this chapter. The county assessor shall update the**
6 **information not later than January 15 of the immediately**
7 **succeeding year.**

8 (f) The county auditor shall apply the credit equally to each
9 installment of taxes that the individual pays for the property.

10 (g) Notwithstanding the provisions of this chapter, a taxpayer other
11 than an individual is entitled to the credit provided by this chapter if:

12 (1) an individual uses the residence as the individual's principal
13 place of residence;

14 (2) the residence is located in Indiana;

15 (3) the individual has a beneficial interest in the taxpayer;

16 (4) the taxpayer either owns the residence or is buying it under a
17 contract, recorded in the county recorder's office, that provides
18 that the individual is to pay the property taxes on the residence;
19 and

20 (5) the residence consists of a single-family dwelling and the real
21 estate, not exceeding one (1) acre, that immediately surrounds
22 that dwelling.

23 SECTION 4. IC 6-1.1-20.9-3, AS AMENDED BY P.L.183-2007,
24 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. (a) **Except as**
26 **provided in section 3.5 of this chapter**, an individual who desires to
27 claim the credit provided by section 2 of this chapter must file a
28 certified statement in duplicate, on forms prescribed by the department
29 of local government finance, with the auditor of the county in which the
30 homestead is located. The statement shall include the parcel number or
31 key number of the real estate and the name of the city, town, or
32 township in which the real estate is located. With respect to real
33 property, the statement must be filed during the twelve (12) months
34 before ~~June 1~~ **December 31** of the year prior to the first year for
35 which the person wishes to obtain the credit for the homestead. With
36 respect to a mobile home that is not assessed as real property or a
37 manufactured home that is not assessed as real property, the statement
38 must be filed during the twelve (12) months before March 31 of the
39 first year for which the individual wishes to obtain the credit. The
40 statement may be filed in person or by mail. If mailed, the mailing must
41 be postmarked on or before the last day for filing. The statement
42 applies for that first year and any succeeding year for which the credit

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1 is allowed.

2 (b) The certified statement referred to in subsection (a) shall contain
3 the name of any other county and township in which the individual
4 owns or is buying real property.

5 (c) If an individual who is receiving the credit provided by this
6 chapter changes the use of the individual's real property, so that part or
7 all of that real property no longer qualifies for the homestead credit
8 provided by this chapter, the individual must file a certified statement
9 with the auditor of the county, notifying the auditor of the change of
10 use within sixty (60) days after the date of that change. An individual
11 who changes the use of the individual's real property and fails to file
12 the statement required by this subsection is liable for the amount of the
13 credit the individual was allowed under this chapter for that real
14 property.

15 (d) An individual who receives the credit provided by section 2 of
16 this chapter for property that is jointly held with another owner in a
17 particular year and remains eligible for the credit in the following year
18 is not required to file a statement to reapply for the credit following the
19 removal of the joint owner if:

- 20 (1) the individual is the sole owner of the property following the
- 21 death of the individual's spouse;
- 22 (2) the individual is the sole owner of the property following the
- 23 death of a joint owner who was not the individual's spouse; or
- 24 (3) the individual is awarded sole ownership of property in a
- 25 divorce decree.

26 SECTION 5. IC 6-1.1-20.9-3.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION

28 TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008
29 (RETROACTIVE)]: **Sec. 3.5. (a) A sales disclosure form under**
30 **IC 6-1.1-5.5:**

- 31 (1) that is submitted during a calendar year to the county
- 32 assessor by the purchaser of a homestead assessed as real
- 33 property;
- 34 (2) that is accurate and complete;
- 35 (3) that is stamped by the county assessor as eligible for filing
- 36 with the county auditor;
- 37 (4) that is filed with the county auditor by the purchaser; and
- 38 (5) in which the purchaser of the homestead states that the
- 39 purchaser will reside in the homestead as the purchaser's
- 40 principal place of residence on December 31 of that calendar
- 41 year;

42 constitutes an application for the credit provided by section 2 of

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1 this chapter.

2 (b) Except as provided in subsection (d), if:

3 (1) the county auditor receives in a calendar year a sales
4 disclosure form that meets the requirements of subsection (a);
5 and

6 (2) the homestead for which the sales disclosure form is
7 submitted is otherwise eligible for the credit under this
8 chapter;

9 the county auditor shall apply the credit under this chapter to the
10 homestead for property taxes first due and payable in the
11 immediately succeeding calendar year and in any later year in
12 which the homestead remains eligible for the credit.

13 (c) A purchaser of a homestead who:

14 (1) submits a sales disclosure form that meets the
15 requirements of subsection (a); and

16 (2) does not reside in the homestead as the purchaser's
17 principal place of residence on December 31 as represented
18 under subsection (a)(5);

19 must file a certified statement with the county auditor notifying the
20 auditor of the information under subdivision (2) not later than
21 fifteen (15) days after December 31. A purchaser to whom this
22 subsection applies who fails to file the statement required by this
23 subsection is liable for the amount of the credit the purchaser was
24 allowed under this chapter for the homestead.

25 (d) Subsection (b) does not apply if the county auditor, after
26 receiving a sales disclosure form from a purchaser under
27 subsection (a)(4):

28 (1) receives a statement from the purchaser under subsection
29 (c); or

30 (2) otherwise determines that the homestead is ineligible for
31 the credit under this chapter.

32 SECTION 6. IC 6-1.1-20.9-4 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:
34 Sec. 4. (a) The auditor of a county (referred to in this section as the
35 "first county") with whom:

36 (1) a credit statement is filed under section 3 of this chapter; or

37 (2) a sales disclosure form is filed under section 3.5 of this
38 chapter;

39 shall immediately prepare and transmit a copy of the statement or form
40 to the auditor of any other county (referred to in this section as the
41 "second county") if the individual who claims the credit or files the
42 form owns or is buying real property located in the second county.

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(b) The county auditor of the second county shall note on the copy of the statement **or form** whether or not the individual has claimed ~~a~~ **the** credit for the current year ~~under section 2 of this chapter~~ for a homestead located in the second county. The auditor shall then return the copy to the auditor of the first county.

SECTION 7. IC 6-1.1-20.9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Sec. 5. (a) Each year, the county auditor shall:

(1) place the original copies of all credit statements filed under section 3 of this chapter **and all sales disclosure forms filed under section 3.5 of this chapter** in alphabetical order by townships; and ~~he shall~~,

(2) without regard to townships, place ~~the~~ **any** duplicate copies for the entire county in alphabetical order.

(b) The auditor shall ascertain from the alphabetical files whether or not more than one (1) statement **or sales disclosure form** has been filed by the same individual.

(c) The county auditor may not grant an individual a credit under section 2 of this chapter if:

(1) the individual, for the same year, claims the credit:

(A) on two (2) or more different statements;

(B) **by submitting two (2) or more different sales disclosure forms; or**

(C) **through any combination of statements and sales disclosure forms; and**

(2) **as a result the statements claim the credit is claimed for different property: more than one (1) homestead.**

SECTION 8. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]
IC 6-1.1-17-0.5, IC 6-1.1-20.9-2, IC 6-1.1-20.9-3, IC 6-1.1-20.9-4, and IC 6-1.1-20.9-5, all as amended by this act, and IC 6-1.1-20.9-3.5, as added by this act, apply only to property taxes first due and payable after 2008.

SECTION 9. An emergency is declared for this act.

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